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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/811,199 | 03/16/2001 | Mohsen S. Marzouk | FIB 0094 PA | 6667 |

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EXAMINER

CAIN, EDWARD J

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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1714

DATE MAILED: 12/04/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/811,199

Applicant(s)

Marzouk et al

Examiner

Edward Cain

Group Art Unit

1714

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☐ Responsive to communication(s) filed on _____.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 16-25 is/are pending in the application.
 - Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 16-25 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____.
 - ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

Art Unit: 1714

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

2. (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
3. (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 16-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Parish.
5. Claims 16-25 are rejected under 35 U.S.C. 102(e) as being anticipated by PATEL.

Applicants' claims are directed to a composition comprising ester, methylethylketone peroxide, and either ethyl acetate, methyl acetate or butyl acetate and compositions directed to methylethylketone peroxide and solvent. It remains the Examiner's position that applicants' claims lack novelty over Parish or Patel and that applicants' claims would be obvious to one of ordinary skill in the art over Parish or Patel.

Applicants' arguments have been considered but are not persuasive. Parish requires a composition comprising ester, solvent, and peroxide. Parish specifically recites ethyl acetate solvent and methylethylketone peroxide in the claims. Ethyl acetate is disclosed in column 8, line 67. Methylethylketone peroxide is disclosed in column 8, line 45. Within the meaning of §

Art Unit: 1714

102, Parish teaches a composition of ester, ethyl acetate, and methylethylketone peroxide. From the Parish disclosure a composition of ester, ethyl acetate, and methylethylketone peroxide would be obvious. Ethyl acetate is also recited in claim 10 which depends upon claim 1.

Methylethylketone peroxide is recited in claim 12 which depends upon claim 1. It is inescapable that Parish teaches a composition of ester, ethyl acetate, and methylethylketone peroxide.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward Cain whose telephone number is 703-308-0042. The examiner can normally be reached on Monday-Friday from 10:00 am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 703-306-2777. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9097 for regular communications and 703-872-9310 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

E. Cain/mn
October 24, 2002

A handwritten signature in black ink, appearing to be 'E. Cain', written in a cursive style.